

Mr. FRIEDEL. Fine. I want to thank you, Mr. Tierney, for a very fine statement. You have a copy of the bill before you?

Mr. TIERNEY. Yes, sir.

Mr. FRIEDEL. H.R. 18212, on the first page of the bill, line 7, you add the words "passenger trains."

Mr. TIERNEY. Yes, sir.

Mr. FRIEDEL. And I think before that we just have the word "trains."

Mr. TIERNEY. That is correct.

Mr. FRIEDEL. Now, you wish to add the word "passenger."

Will you elaborate on that a little more?

Mr. TIERNEY. That change is merely for clarification purposes.

As a matter of actual experience with section 13a, there have been no proceedings brought which relate to freight service, although the language would be broad enough to include freight service. All we are doing is just assuring that the language will be limited to passenger train service.

Mr. FRIEDEL. What I am trying to get clear in my mind is: Would the States have any authority over the trains, mixed trains for instance?

Mr. TIERNEY. Would the ——

Mr. FRIEDEL. Would the States?

Mr. TIERNEY. Oh, yes, sir.

Mr. FRIEDEL. They would have authority?

Mr. TIERNEY. As to trains; yes, sir.

We have asked for exclusive jurisdiction only with respect to the last interstate trains. Other than that, jurisdiction would remain as it is now.

Mr. FRIEDEL. Over mixed trains, passenger trains?

Mr. TIERNEY. Yes, sir; that is my understanding.

Mr. FRIEDEL. Mr. Adams, do you have any questions?

Mr. ADAMS. Yes.

Mr. Tierney, I am sorry that some of us have not had a chance to go through this in as much detail as we would like, but on your proposal here, 13a originally only gave you an opportunity to take jurisdiction and thus delay the discontinuance for 2 years I believe.

Mr. TIERNEY. One year, sir.

Mr. ADAMS. One year?

Mr. TIERNEY. Yes.

Mr. ADAMS. In this, I notice you mention that the burden of proof would shift—this is on page 5—and the carriers would be required to prove that trains would not be required by the public convenience and necessity.

Are you now suggesting a system whereby the passenger carrier would either (1) not be allowed to discontinue at all or (2) that he would not be allowed to discontinue in the situation where you are dealing with last train service available to a community?

Mr. TIERNEY. This change involving the burden of proof would refer to all trains.

It is merely stating, in effect, what I believe to be a clarification of where the burden of proof lies in these particular cases.

Mr. ADAMS. But it would not extend indefinitely?